

**ASSEMBLY BILL**

**No. 1404**

---

**Introduced by Assembly Member Grove**

February 27, 2015

---

An act to add Sections 17053.75 and 23675 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1404, as introduced, Grove. Income taxes: credit: employees with disabilities.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill, for taxable years beginning January 1, 2016, would allow a credit under those laws to an employer who employs in this state, an individual with a disability who may be paid a special minimum wage, and pays the qualified employee a wage equal to or exceeding the minimum wage during the taxable year. The credit would be allowed in an amount equal to the difference between the special minimum wage and the minimum wage.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17053.75 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17053.75. (a) For taxable years beginning on or after January
- 4 1, 2016, there shall be allowed a credit against the "net tax," as

1 defined by Section 17039, to a qualified employer who employs  
2 a qualified employee and who pays the qualified employee a wage  
3 that equals or exceeds the minimum wage during the taxable year.

4 (b) The credit shall be in an amount that is equal to the  
5 difference between the special minimum wage that may be paid  
6 to a qualified employee and the minimum wage.

7 (c) For purposes of this section, the following definitions shall  
8 apply:

9 (1) “Minimum wage” means the wage established by the  
10 Industrial Welfare Commission as provided for in Chapter 1  
11 (commencing with Section 1171) of Part 4 of Division 2 of the  
12 Labor Code.

13 (2) “Qualified employee” means an individual who may be paid  
14 a special minimum wage pursuant to Section 214(c) of Title 29 of  
15 the United States Code or Section 1191 or 1191.5 of the Labor  
16 Code.

17 (3) (A) Qualified employer means a taxpayer that employs a  
18 qualified employee in this state.

19 (B) In the case of any pass-thru entity, the determination of  
20 whether a taxpayer is a qualified employer under this section shall  
21 be made at the entity level and any credit under this section or  
22 Section 23675 shall be allowed to the pass-thru entity and passed  
23 through to the partners or shareholders in accordance with  
24 applicable provisions of this part or Part 11 (commencing with  
25 Section 23001). For purposes of this section, the term “pass-thru  
26 entity” means any partnership or S corporation.

27 (d) A qualified employer shall do both of the following:

28 (1) Obtain from the Industrial Welfare Commission a  
29 certification that a qualified employee meets the eligibility  
30 requirements of paragraph (2) of subdivision (c).

31 (2) Retain the certification and provide a copy of it upon request  
32 to the Franchise Tax Board.

33 SEC. 2. Section 23675 is added to the Revenue and Taxation  
34 Code, to read:

35 23675. (a) For taxable years beginning on or after January 1,  
36 2016, there shall be allowed a credit against the “tax,” as defined  
37 by Section 23036, to a qualified employer who employs a qualified  
38 employee and who pays the qualified employee a wage that equals  
39 or exceeds the minimum wage during the taxable year.

1 (b) The credit shall be in an amount that is equal to the  
2 difference between the special minimum wage that may be paid  
3 to a qualified employee and the minimum wage.

4 (c) For purposes of this section, the following definitions shall  
5 apply:

6 (1) “Minimum wage” means the wage established by the  
7 Industrial Welfare Commission as provided for in Chapter 1  
8 (commencing with Section 1171) of Part 4 of Division 2 of the  
9 Labor Code.

10 (2) “Qualified employee” means an individual who may be paid  
11 a special minimum wage pursuant to Section 214(c) of Title 29 of  
12 the United States Code or Section 1191 or 1191.5 of the Labor  
13 Code.

14 (3) (A) Qualified employer means a taxpayer that employs a  
15 qualified employee in this state.

16 (B) In the case of any pass-thru entity, the determination of  
17 whether a taxpayer is a qualified taxpayer under this section shall  
18 be made at the entity level and any credit under this section or  
19 Section 17053.75 shall be allowed to the pass-thru entity and  
20 passed through to the partners or shareholders in accordance with  
21 applicable provisions of this part or Part 10 (commencing with  
22 Section 17001). For purposes of this subparagraph, the term  
23 “pass-thru entity” means any partnership or “S” corporation.

24 (d) A qualified employer shall do both of the following:

25 (1) Obtain from the Industrial Welfare Commission a  
26 certification that a qualified employee meets the eligibility  
27 requirements of paragraph (2) of subdivision (c).

28 (2) Retain the certification and provide a copy of it upon request  
29 to the Franchise Tax Board.

30 SEC. 3. It is the intent of the Legislature to enact legislation  
31 to comply with the requirements of Section 41.

32 SEC. 4. This act provides for a tax levy within the meaning of  
33 Article IV of the Constitution and shall go into immediate effect.